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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,580	06/06/2002	David John Roberts	B0192/7035	8724

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WOLF GREENFIELD & SACKS, PC  
FEDERAL RESERVE PLAZA  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2211

EXAMINER
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EWOLDT, GERALD R

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/019,580

Applicant(s)

ROBERTS ET AL.

Examiner

G. R. Ewoldt, Ph.D.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 5-9, 13-16, 20-26, 30-32, 37-39, 43, 48-50, 58-60, 65-72 and 78 is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 5-9,13-16,20-26,30-32,37-39,43,48-50,58-60,65-72,78 and 82.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1-4,10-12,17-19,27-29,33-36,40-42,44-47,51-57,61-64,73-77 and 79-81.

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#### DETAILED ACTION

1. Restriction is required under 35 U.S.C. 121 and 372.
2. Note that Claims 5-9, 13-16, 20-26, 30-32, 37-39, 43, 48-50, 58-60, 65-72, 78, and 82 are objected to and withdrawn from consideration for being non-statutory "Use" type claims or being improperly multiply dependent.
3. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1:
  - I. Claims 1-4, drawn to a method of treating dendritic cells (DCs) *in vitro* employing a CD36 and/or a CD51 agonist.
  - II. Claims 10-12 and 17-19, drawn to a method of identifying an agonist of CD36 and/or a CD51 employing an immature DC.
  - III. Claims 27-29, drawn to a pharmaceutical composition comprising a CD36 agonist.
  - IV. Claims 33-36, drawn to a pharmaceutical composition comprising a CD51 agonist.
  - V. Claims 40-42, drawn to a method of identifying an agonist of CD36 and/or a CD51 employing antigen presenting cells (APCs).
  - VI. Claims 44-47, drawn to a method of treating APCs *in vitro* employing an agonist of CD36 and/or a CD51.
  - VII. Claims 51-52, drawn to a method of identifying a  $\beta$  integrin agonist.
  - VIII. Claims 53-54, drawn to a pharmaceutical composition comprising a  $\beta$  integrin agonist.
  - IX. Claims 55-57, drawn to a method of treating APCs *ex vivo* employing a  $\beta$  integrin agonist.
  - X. Claims 61-62, drawn to a pharmaceutical composition comprising a thrombospondin (TSP) receptor agonist.

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XI. Claims 63-64, drawn to composition comprising apoptotic cells.

XII. Claims 73-77 and 79-81, drawn to a method of identifying a molecule capable of preventing the adherence of red blood cells infected with a malarial parasite to DCs.

4. The inventions listed do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

WO 95/05191 (IDS) teaches the pharmaceutical composition of Groups X.

Since Applicant's inventions do not contribute a special technical feature when viewed over the prior art they do not have single general inventive concept and lack unity of invention.

5. Accordingly, Groups I-XII are not so linked as to form a single general inventive concept and restriction is proper.

6. Additionally, should Applicant elect Group I, III, or V, Applicant is required to elect a specific CD36 agonist, such as one of those set forth in Claim 1.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. It is noted that no paper copy of the Sequence Listing has been found in the application. It is requested that Applicant submit an original/additional copy.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Gerald Ewoldt whose telephone number is (571) 272-0843. The examiner can normally be reached Monday through Thursday from 7:30 am to 5:30 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841.

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10. **Please Note:** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



8/10/05

G.R. Ewoldt, Ph.D.  
Primary Examiner  
Technology Center 1600